

FIRST AMENDMENT: FREEDOM OF THE PRESS AND SCHOOL NEWSPAPERS

This activity is on the First Amendment and freedom of the press. Exploring the landmark Supreme Court case ***Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988)**, students will examine the question: When school officials disallow the publishing of certain articles in the school newspaper are the student writers' free speech rights violated?

About These Resources

- Analyze the [facts and case summary](#) for *Hazelwood School District v. Kuhlmeier*.
- Build arguments for both sides, starting with these [talking points](#).
- Use critical thinking skills and share reflections on the [discussion questions](#).

How to Use These Resources

This activity is a modified [Oxford style debate](#).

- To get started, have participants read the *Hazelwood School District v. Kuhlmeier* [facts and case summary](#).
- Assign student attorneys to the issues listed in the [talking points](#). They are suggested points— not a script—for the debate. Student attorneys are encouraged to add their own arguments.
- All other students are jurors who deliberate (and may refer to these talking points) during the open floor debate. They debate among themselves in the large group or smaller groups and come to a verdict after the attorneys present closing arguments.

Background: Freedom of Press in the United States

Before the American Revolution, English authorities often censored the press in order to ensure that articles critical of the government were not widely circulated. The Founders knew that a free press was essential for the promotion of ideas, so this protection was built into the Constitution in the Bill of Rights as the First Amendment.

The Supreme Court of the United States has been highly critical of any attempt to impose a prior restraint on the press, i.e., prohibiting a paper from publishing a story. The Court has even made it harder for individuals to sue newspapers for libel and slander.

Today, suits involving freedom of the press are still prevalent in the courts. Some prominent issues are: (1) What constitutes "the press" in an age when many people can create their own blog on the Internet? (2) Must reporters reveal their sources when ordered to by legal authorities?

FACTS AND CASE SUMMARY: HAZELWOOD V. KUHLMIEIER

Facts and case summary for *Hazelwood v. Kuhlmeier*, 484 U.S. 260 (1988)
The First Amendment rights of student journalists are not violated when school officials prevent the publication of certain articles in the school newspaper.

FACTS	<p>Students enrolled in the Journalism II class at Hazelwood East High School were responsible for writing and editing the school's paper <i>The Spectrum</i>. Two of the articles submitted for publication in the final edition of the paper contained stories on divorce and teenage pregnancy. The divorce article featured a story about a girl who blamed her father's actions for her parents' divorce. The teenage pregnancy article featured stories in which pregnant students at Hazelwood East shared their experiences.</p> <p>To ensure their privacy, the girls' names were changed in the article. The school principal felt that the subjects of these two articles were inappropriate. He concluded that journalistic fairness required that the father in the divorce article be informed of the story and be given an opportunity to comment. He also stated his concerns that simply changing the names of the girls in the teenage pregnancy article may not be sufficient to protect their anonymity and that this topic may not be suitable for the younger students. As a result, he prohibited these articles from being published in the paper.</p> <p>Because there was no time to edit the paper if it were to go to press before the end of the school year, entire pages were eliminated. The student journalists then brought suit to the U.S. District Court for the Eastern District of Missouri, alleging that their First Amendment rights to freedom of speech had been violated.</p> <p>The U.S. District Court concluded that they were not. The students appealed to the U.S. Court of Appeals for the Eighth Circuit, which reversed the ruling, stating that the students' rights had been violated. The school appealed to the U.S. Supreme Court, which granted certiorari.</p>																
PROCEDURE	<table><tr><td>Lower Court:</td><td>Eighth Circuit</td></tr><tr><td>Lower Court Ruling:</td><td>Held: The decision of the principal to prohibit the publishing of certain student articles deemed to be inappropriate violates the student journalists' First Amendment free speech rights.</td></tr><tr><td>Supreme Court Ruling:</td><td>Held: Reversed the decision of the Eighth Circuit. The decision of the school principal to prohibit the publishing of certain articles deemed to be inappropriate does not violate the student journalists' First Amendment right of freedom of speech.</td></tr><tr><td>Supreme Court Vote:</td><td>5-3</td></tr><tr><td>Argued:</td><td>October 13, 1987</td></tr><tr><td>Decided:</td><td>January 13, 1988</td></tr><tr><td>Majority Opinion:</td><td>Justice White (joined by Chief Justice Rehnquist and Justices O'Connor and Scalia)</td></tr><tr><td>Dissenting Opinion:</td><td>Justice Brennan (joined by Justices Marshall and Blackmun dissenting)</td></tr></table>	Lower Court:	Eighth Circuit	Lower Court Ruling:	Held: The decision of the principal to prohibit the publishing of certain student articles deemed to be inappropriate violates the student journalists' First Amendment free speech rights.	Supreme Court Ruling:	Held: Reversed the decision of the Eighth Circuit. The decision of the school principal to prohibit the publishing of certain articles deemed to be inappropriate does not violate the student journalists' First Amendment right of freedom of speech.	Supreme Court Vote:	5-3	Argued:	October 13, 1987	Decided:	January 13, 1988	Majority Opinion:	Justice White (joined by Chief Justice Rehnquist and Justices O'Connor and Scalia)	Dissenting Opinion:	Justice Brennan (joined by Justices Marshall and Blackmun dissenting)
Lower Court:	Eighth Circuit																
Lower Court Ruling:	Held: The decision of the principal to prohibit the publishing of certain student articles deemed to be inappropriate violates the student journalists' First Amendment free speech rights.																
Supreme Court Ruling:	Held: Reversed the decision of the Eighth Circuit. The decision of the school principal to prohibit the publishing of certain articles deemed to be inappropriate does not violate the student journalists' First Amendment right of freedom of speech.																
Supreme Court Vote:	5-3																
Argued:	October 13, 1987																
Decided:	January 13, 1988																
Majority Opinion:	Justice White (joined by Chief Justice Rehnquist and Justices O'Connor and Scalia)																
Dissenting Opinion:	Justice Brennan (joined by Justices Marshall and Blackmun dissenting)																
ISSUES	<p>Does the decision of a principal to prohibit the publishing of certain articles, which he deems inappropriate, in the school newspaper violate the student journalists' First Amendment right of freedom of speech?</p>																
REASONING	<p>The U.S. Supreme Court held that the principal's actions did not violate the students' free speech rights. The Court noted that the paper was sponsored by the school and, as such, the school had a legitimate interest in preventing the publication of articles that it deemed inappropriate and that might appear to have the imprimatur of the school. Specifically, the Court noted that the paper was not intended as a public forum in which everyone could share views; rather, it was a limited forum for journalism students to write articles pursuant to the requirements of their Journalism II class, and subject to appropriate editing by the school.</p> <p>Key Points to Remember</p>																

- The First Amendment protects the right to freedom of speech.
- *The Spectrum* was written by students in the Journalism II course as part of the requirements of that course.
- The articles in question were about divorce and teenage pregnancy. The subjects of both of these stories were students at Hazelwood East High School.
- The divorce article featured a story in which a girl blamed her father's actions for her parents' divorce, but the author did not adhere to journalistic standards by informing the father of the story and giving him an opportunity to respond.
- Although their names were changed, the principal was concerned that students may be able to recognize the identity of the girls who were interviewed for the pregnancy article.

RESOURCES

[First Amendment Center](#)

Haynes, Charles C., et al. *The First Amendment in Schools: A Guide from the First Amendment Center*. Virginia. ASCD (Association for Supervision and Curriculum Development) publications, 2003.

Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1988) ([Majority and dissenting opinions](#)).

Raskin, Jamin B. *We the Students: Supreme Court Cases for and About Students*, 2nd ed. Washington, D.C. Congressional Quarterly Press, 2003.

TALKING POINTS

Question:

When school officials disallow the publishing of certain articles in the school newspaper are the student writers' free speech rights violated?

Hazelwood School District

Kuhlmeier

1. Can schools decide what speech may disrupt learning?

Affirmative. Yes.

There are limits to free speech within a public school. While the government cannot prohibit speech based upon content under most circumstances, public school authorities must be given more leeway to restrict speech in order to run a school efficiently. Among other factors, school authorities must consider whether particular speech will disrupt the learning environment if other students find it to be offensive. The articles involved in this case were about divorce and teen pregnancy as they related to specific teens and their parents. As such, they could have been offensive and could have disrupted the learning environment. The school was obligated to take precautions to protect the privacy of the subjects of these articles, especially since they were students at the school.

Negative. No.

Although school administrators must be given leeway to run a school efficiently, there is no evidence that the publication of the two articles at issue in this case would disrupt the learning environment. One involved the divorce of a student's parents and one was about teen pregnancy, including specific, but unnamed, pregnant teens at the school. It cannot be assumed that these articles would have disrupted the school environment. The articles were presented in a tasteful and professional manner. Just because articles deal with controversial topics is not a sufficient reason for school authorities to censor them. If school administrators are preparing students to be responsible citizens, then the students must be able to investigate and report on these topics. Because the actions of the school administrators were clearly based on the content of the articles, they violated the students' First Amendment right to freedom of speech. As the Court stated in *Tinker v. Des Moines*: Students do not "shed their constitutional rights to freedom of speech and expression at the schoolhouse gate. . . ."

2. Are school newspapers a limited public forum or an unlimited public forum that schools can control?

Affirmative. Yes.

The state, including public school administrators, has always had more authority to limit speech in certain situations. When school authorities open an activity to everyone without restrictions, they can almost never limit the content of the speech. However, when school authorities control access to the activity, they may limit the content of speech to what is appropriate for that event. Here, the school sought to limit controversial speech in the Journalism II writing class that published the school newspaper. The school did not give students the freedom to publish whatever they liked. Instead, it ultimately retained final editorial discretion over publications. As a result, the student newspaper was a limited public forum for which the school, if it chose, could use its discretion to prevent the publication of certain materials.

Negative. No.

Essentially, the school established a public forum in the Journalism II course that published the newspaper. The school delegated all editorial decisions to the paper. Unless there was a non-content-based reason for striking an article, the school could not prohibit the publication just because the administration found articles controversial.

3. Are schools responsible for student newspapers and, if so, do they have the right to censor the content?

Affirmative. Yes.

The school retains ultimate responsibility for publishing the newspaper. The school's name is on the newspaper; therefore, any stories that are found in it can be attributed to the school and its administration. The school retains the right to edit the content of the paper to ensure that neither the school nor its administration is portrayed in an inappropriate light.

Negative. No.

Basically, the school delegated responsibility for publishing the paper to the Journalism II class. As such, it waived responsibility for the content. If the school felt strongly that a given article should not be published, it could send out a disclaimer announcing that it is not responsible for, nor does it necessarily agree with, the content of the article. However, the school could not censor the article. In the extreme, the administration might shut down the paper at the conclusion of a school year and not renew the Journalism II course, but it cannot decide to prohibit the publication of certain articles.

DISCUSSION QUESTIONS

Use these questions to start thoughtful discussions on the issue of freedom of the press in schools and society.

1. How does this case have an impact on high school students? How do you think the students will react to the case? How is this case relevant today?
2. What if the Court reached the opposite conclusion that it did in the case? How would such a decision affect students? Schools in general? Society at large?
3. Who is in the best position to make decisions affecting school policy and discipline? The courts? School administrators? Teachers? Parents? Students? Combinations of these different groups?
4. What do you see as the proper role of the Supreme Court in the life of high school students? In society at large?
5. Do you feel that the Supreme Court has affected your life? If so, in what ways?
6. Can you name any decisions/holdings of the Supreme Court that have had a significant impact on society? If so, how do you feel about these decisions?
7. Do you think students should have the same rights as adults? Is it ever appropriate to limit students' rights during school hours? If so, under what circumstances?
8. How much authority should schools have over students when they are off school property? For instance, should schools have the right to punish a student for material on the student's personal website that makes fun of a teacher? What if the website threatens a teacher and/or fellow student?